

**BEFORE THE INDEPENDENT
HEARINGS PANEL FOR THE
QUEENSTOWN LAKES DISTRICT
COUNCIL**

Under the Resource Management
Act 1991

In the matter of the Urban
Intensification Variation
to the proposed
Queenstown Lakes
District Plan.

LEGAL SUBMISSIONS ON BEHALF OF

LISMORE STREET GROUP

25 August 2025

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Introduction

1. These legal submissions are presented on behalf of Ian Farrant, Lady Eleanor Skeggs, Julie and Bruce Steenson, Maria Young, Marie and Warwick Osborne, John and Judy Young and Prue Hendry who own residential properties located between 22 and 42 Lismore Street, Wanaka (hereafter collectively referred to as **the Group**).¹
2. Mr Steenson and Mr Osborne have filed statements of lay evidence dated 8 July 2025, and expert planning evidence from Carey Vivian, on behalf of the Group, has also been filed.

Summary of the Group's Position

3. All of the submitters properties are zoned High Density Residential (**HDR**) in the Proposed District Plan (**PDP**). They occupy, as described by My Vivian the “top row” of the Lakeside Road/Lismore Street block. The dwellings on the submitters properties are all relatively new, and of high value.
4. The dwellings owned by the Group enjoy panoramic views of Lake Wanaka and the wider Outstanding Natural Landscape. These views will be significantly diminished by construction of 12 high buildings in front of them as illustrated on the cross sections appended to Mr Vivian's evidence.
5. The Group's concern is that the variation, while ostensibly directed at enabling housing supply, will in fact, so far as the HDR zone is concerned, deliver little additional housing and instead incentivise visitor accommodation, with substantial adverse effects on existing amenity.
6. The Group's original written submission can be summarised as follows:

¹ Submitters 1233, 1132, 1135, 1058, 1131, 1134 and 1057.

- the variation will not deliver **residential housing opportunities** in the HDR zone as promoted by the variation;
 - visitor accommodation (VA) activities will outcompete residential, bringing with them greater adverse effects on amenity as a result of increased development potential which is an unintended consequence of the variation;
 - there is no established need for the intensification provisions and upzoning promoted by the variation;
 - a one size fits all approach is not appropriate across the Wanaka HDR zone;
 - the status quo provisions of the PDP should remain.
7. Mr Vivian on behalf of the Group promotes an **alternative form of relief** (rather than reversion to the status quo, as sought in the submissions lodged), in the form of a targeted height control. The Group supports this as an appropriate outcome. It is based on an RL level taken from the various cross sections applying to the Group's properties, and effectively preserves the status quo permitted height limit for the properties immediately to the south of the Group's properties.²

Statutory and Policy Framework (NPS–UD Policies 2 and 5)

8. Policy 5 is not rigid in its application to Tier 2 (T2) authorities such as QLDC. It provides *flexibility* for the way in which T2's respond to intensifying urban environments commensurate with the greater of accessibility or relative demand. T2 authorities are not under the same obligations as Tier 1 authorities to provide for intensification and are not constrained by the same requirements. The concept of 'qualifying matters' (QM's) does not apply to T2 authorities.
9. It is submitted that the obligation to 'give effect' to the NPS is to the instrument as a **whole**, not just to policy 5.

² 7m height within 2m of their northern boundary

Policy 2 sets a minimum requirement, not a mandate for excess

10. Policy 2 of the NPS requires local authorities to:

“At all times, provide at least sufficient development capacity to meet expected housing and business land demand over the short, medium, and long term.”

11. This policy establishes a *minimum requirement*, not a directive to provide unlimited or **unnecessary** excess capacity.

12. The evidence as I understand it, is that across the district, the current planning framework already enables a quantum of development capacity that significantly exceeds projected demand, as evidenced in the most recent Housing and Business Development Capacity Assessment (**HBA**). Accordingly, the obligation under Policy 2 is already *fully satisfied*.³

Policy 5 requires proportionality, not blanket intensification

13. Policy 5 states:

“Regional policy statements and district plans enable heights and densities of urban form commensurate with the level of accessibility by existing or planned active or public transport or the relative demand for housing and business use in that location.”

14. The key word here is “*commensurate*” — meaning *proportionate or corresponding in scale*.

15. This provision does not create a blanket obligation to intensify across the urban environment. Rather, it requires planning responses to be tailored to local conditions, including in my submission, actual and forecast housing demand and transport accessibility.

³ This appears to be acknowledged by the Council in their memorandum of 25 July 2025, where at [25] it is stated that the purpose of the variation is not to respond to a shortfall in overall development capacity in the short, medium or long term under Policy 2.

16. Where development capacity already significantly exceeds demand, and where no material change in accessibility has occurred or is planned, further intensification would not be commensurate with those circumstances. It would go beyond what policy 5 reasonably requires or contemplates. I submit (as others have done) that policy 5 must be read in the overarching context of the NPS, which intends to enable growth by requiring local authorities to ultimately provide sufficient development capacity.
17. In this regard, the NPS creates 3 tiers of local authority which have different levels of prescription applied though the NPS policy framework.
18. These have been canvassed in other submissions, but it is noteworthy to emphasise that T2 authorities have no prescriptive policies around zoning, heights or densities, which does suggest a more flexible approach in implementation of the NPS and policy 5 in particular.
19. The Council's s32 report acknowledges that a range of heights and density options could be suitable to achieve policy 5 of the NPS.

A staged and evidence-led approach is consistent with the NPS

20. One approach that does not appear to have been considered is that the NPS does not prevent councils from adopting a staged approach to zoning, where further intensification is only considered once the existing surplus capacity is taken up or becomes demonstrably insufficient.
21. It is submitted that such an approach is entirely consistent with the objectives and policies of the NPS, including the core obligations under policies 2 and 5. In my submission, the directions under policies 2 and 5 must be read together, not separately as the Council has done here. It seems to make little logical sense that we are effectively told to set to one side district plan provisions that provide more than sufficient plan enabled capacity to meet demand in all locations in the District (and associated infrastructure planning and funding work to service the same), and

now go off and embark on a plan change to provide even greater intensification which is directed to enabling long-term patterns of housing.⁴

22. In a situation such as this, for a T2 authority, where the current planning framework already provides development capacity that materially exceeds forecast demand, further upzoning or intensification is not required under either policy 2 or policy 5 of the NPS.

23. Following on from this, rather than prematurely upzoning, a staged and evidence-based approach would allow:

- Future capacity to be enabled where it *will actually address affordability*;
- Infrastructure investment and zoning to be aligned; and
- Council to tailor responses to local need (e.g. by using inclusionary zoning/value capture, density bonuses, or other tools alongside zoning). This has already worked well in parts of the district, but more targeted measures are required and will be a significant lost opportunity as a consequence of this variation.

24. This approach also aligns with:

- The **purpose of the RMA** (s 5) — enabling people to provide for their wellbeing sustainably;
- **NPS Objectives 1, 2 and 6**; and
- **Policy 1**, which defines a "well-functioning urban environment" as one that:

“Has or enables a variety of homes that meet the needs, in terms of type, price, and location, of different households.”

25. It is submitted that further upzoning in this context not only exceeds what the NPS requires, but also risks *foreclosing future opportunities* to enable capacity in a more targeted, deliberate way - in locations and forms that better address housing affordability and community need, *rather than simply housing quantity*. Once additional capacity is enabled, it becomes difficult to reverse or refine. This, in

⁴ Adopting the terminology from the Council’s 25 July Memorandum at paragraph 5.

my submission, risks locking in an urban form that is poorly aligned with infrastructure, market feasibility, or affordability outcomes, and in my submission goes a long way to undermining the delivery of a well-functioning urban environment, as described in Objective 1 and Policy 1 of the NPS.

Amenity Values and Visitor Accommodation Risk

26. s7(c) requires that particular regard shall be given to the maintenance and enhancement of amenity values. Policy 6 of the NPS recognises that the amenity that current residents experience may change. That does not however prevent amenity considerations altogether which in my submission are a component of Objective 1 that *New Zealand has well-functioning urban environments*.

27. While it is accepted that intensification under policy 5 refers to both residential and business land, it is noteworthy that the issues that the variation seeks to address in giving effect to the NPS are focused on enabling the development of a diverse range of housing typologies to provide greater housing choice and affordability.⁵

28. Here, Mr Vivian's evidence is particularly relevant in considering policy 6 of the NPS and the balance to be achieved in providing for intensification and amenity values.⁶ He opines that the 12m height plane (in combination with other rules) is weighted in favour of VA and will not improve amenity values and is unlikely to result in any increase in housing densities or types.

Council's s42A Report and Rebuttal Evidence

29. The Council's s42A reporting on the Group's submission is addressed in the evidence of Mr Vivian.⁷ Ms Frischknecht has provided rebuttal evidence to that of Mr Vivian, directed particularly to the relief sought by the Group.⁸

⁵ s32 report at Part 5.2

⁶ At 5.11

⁷ At paragraph 4.1

⁸ From paragraph 7.20

30. A key observation made by Ms Frischknecht is that the HDR zone in Wanaka did not perform as well as Queenstown and Frankton in the accessibility and demand analysis. On this basis, she concludes that the same building height provisions applied in Queenstown are not justified for Wānaka.⁹ That analysis is important in two respects. First, it confirms that Council does have latitude in determining “where and to what extent” intensification is provided for within the District. Second, it demonstrates that bespoke approaches can be justified, and that a “one height fits all” model is neither required by the NPS–UD nor supported by the evidence.

31. Mr Vivian similarly observes that there is no reason why bespoke provisions cannot be applied as sought by the Group, particularly where the objective is to maintain residential amenity in an area otherwise at risk of being dominated by visitor accommodation.¹⁰ In this respect, Mr Vivian gives the example of Lake Esplanade, in Queenstown where the HDR zoning has, over time, facilitated VA to the point of its dominance. He observes that Lakeside Road in Wanaka has a similar predominantly VA character.¹¹ His evidence is that such an outcome is inevitable here if the variation is confirmed without refinement.

32. This position is reinforced by Policy 5, which provides flexibility in implementing the NPS–UD “enable heights” directive. Policy 5 makes plain that a range of building heights is permissible across urban areas, and the Council retains discretion to differentiate between locations. In short, the planning framework does not compel uniformity of outcome.

⁹ At paragraph 7.23

¹⁰ At paragraph 5.2

¹¹ At paragraph 5.14

33. In addition, the physical context of the HDR land in this location is highly distinctive. As Mr Vivian observes,¹² the zone is divided into three rows: the lower lakeside row (already of visitor accommodation character), the middle row (a mix of residential and visitor accommodation), and the upper row which, as above, is comprised relatively new and high value residential dwellings. The risk of further dominance by visitor accommodation is heightened by the permissive planning regime for VA activities, which has been extensively discussed in the evidence before the Panel.¹³
34. Ms Frischknecht's rebuttal that VA is "anticipated" in the HDR zone misses the core point. While VA is enabled in HDR, the variation is expressly premised on meeting housing demand and creating residential development opportunity. That was the clear focus of the economic evidence underpinning the variation (see, for example, Dr Fairgray's summary statement where this is emphasised and Ms Scott's opening submissions for the Council).¹⁴ The evidence did not advance VA supply as a driver for intensification. Accordingly, enabling additional height which will inevitably be taken up by VA is unsupported by the underlying rationale for the variation. As submitted above, it also counts against Policy 6's watering down of amenity values of existing residents, which in my submission can only justifiably be sacrificed for the 'greater good' if the outcomes of the variation are to be achieved, which they will not be in the HDR zone.
35. There is a mis-match in my submission between the planning rationale (residential intensification) and the likely economic outcome (increased VA) which is at odds with what the variation seeks to achieve, and intended outcomes.

¹² At paragraph 5.14

¹³ Both by Mr Vivian, and Mr Edgar, in the context of the HDR zone in Queenstown.

¹⁴ At paragraph 2.3(d)

36. Judged against this background, the Group's relief is both justified and necessary to give proper effect to the intensification variation. A bespoke height provision for this location would ensure that residential amenity is maintained and that the policy intent of the variation – to provide for residential intensification – is not undermined by outcomes dominated by visitor accommodation.
37. The Group's submission is that applying the variation in a modified form will still ensure the variation gives effect to the NPS when read overall in light of both Policy 5, and particularly in the context of the variation generally contributing to significant 'excess policy 2 capacity'.¹⁵
38. The site responsive relief advanced is not out of place in this variation to manage change, while at the same time allowing for housing diversity and without significantly undermining the amenity values that residents enjoy. I agree with others who have submitted before me that significant recognition should be given to lay evidence regarding the amenity values that are important, and how those values can be protected.
39. The significance of the adverse effect of the variation on the Group's amenity, particularly views, are illustrated by the cross sections included with Mr Vivian's evidence. It is submitted that if the provisions of the variation do not give effect to the NPS, then Policy 6 cannot be relied upon to justify the significant changes to residential amenity that are likely to occur as a result of the variation.
40. The variation will result in the very real potential for a substantial VA development immediately in front of the Group's properties with no matters of discretion related to residential amenity with respect to increased development

¹⁵ QLDC Memorandum in response to Minute 4

capacity. There is no striking of any balance between urban intensification and amenity values in this development scenario.

41. While Policy 6 recognises that amenity may change, it does not remove amenity from consideration altogether. In this context it is submitted that amenity values will be significantly affected beyond any level of change or ‘evolution’ that might have been anticipated (or justified) by the NPS. The variation, at least so far as the HDR zone is concerned, will not significantly contribute to housing, will not improve competitive land and will have unintended consequences such as the delivery of VA at the expense of residential housing. The result will be a wholesale loss of valued amenity for existing residents, without the countervailing gain of additional housing capacity.

Conclusion

42. Both Mr Vivian and Ms Frischknecht agree that Wanaka HDR performs differently from Queenstown and Frankton. That recognition confirms the Council has discretion to adopt a bespoke response, and that a uniform height regime is not justified. This is precisely the kind of local tailoring that Policy 5 permits.
43. For these reasons, the Group submits that a bespoke height provision is necessary to give proper effect to the NPS–UD, preserve residential amenity, and ensure that the variation delivers housing outcomes rather than unintended visitor accommodation dominance.

Dated 25 August 2025



Jayne Macdonald

Counsel for the Lismore Street Group